

*
"UNITED" STATES "DISTRICT" COURT
FOR THE DISTRICT OF DELAWARE
*

CURTIS' COLLINS *

CIVIL NO. 05-739-SLR-

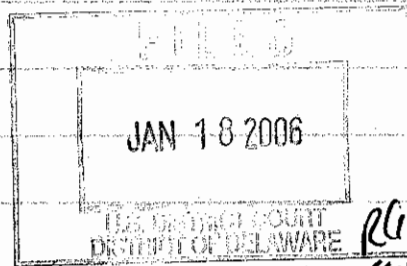
Plaintiff *

v *

WARDEN ROCK' KEARNEY
ET. AL *

DEFENDANTS

ANSWERING BRIEF IN OPPOSITION TO THE
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
AND REPLY BRIEF IN SUPPORT OF THE PLAINTIFF
MOTION FOR SUMMARY JUDGMENT



Curtis M. Collins

Director of, Correction

Smyrna Delaware 1181, Paddock Road

1997

DISTRICT COURT

TABLE OF CONTENTS

TABLE OF AUTHORITIES	Page 1 2
NATURE STAGE PROCEEDING	Page 2 3
SUMMARY OF THE FACTS	Page 3 4
SUMMARY OF THE ARGUMENTS	Page 4 5
STATEMENT OF THE FACTS	Page 5
ARGUMENTS	Page 6 7
CONCLUSION	Page 7 8

IN * DISTRICT * COURT * OF * DELAWARE
TABLE OF AUTHORITIES

CASES

BRACEY V. GRONBIE 494-F.2D-566

BYRD V. BRISHKE 466-F.2D-6

COLLINS V. BROWN 268-F-Supp-198

CURTIS V. EURETT 489-F.2D-516

DAVIDSON V. DEXON 386 F. Supp 482

DOLE V. ARCO chemical co. 921-F.2D-484

HUDSON 112 S. CT-995

KOMPERT V. RENOIX METAL CO. 372-F.2D-245

HANDMAN V. ROYSTER 354-F. Supp-1302

MONROE V. POPE 81-S. CT-473

NUSSLE V. PORTER 122-S. CT-983

POPE V. MARGIT 476-F. Supp-1237

WRISHT V. MC.MANN 460 F. 2D-126

Constitutional PROVISION

EIGHT Amendment

FOURTEENTH AMENDMENT

* NATURE STAGE OF PROCEEDINGS *

PAGE # 2

2#
PAGE # 2

On 8-6-2005 Plaintiff Curtis M. Collins entered The main chow hall at Breakfast time while at The Sussex Correctional Center Located in Georgetown, De. He asked other inmates already seated at the table to slide down so he could sit down to eat. at which time % Berezensky told Mr. Collins to "shut The Fuck up" and "Throw your Fucking Food tray away" Mr. Collins asked % Berezensky why he had to throw away his food tray. % Berezensky responded There no talking in the chow Hall, Mr. Collins was not having a conversation with another inmate, he was simply trying to get a place vacated so he could eat his Food. Mr. Collins the use the chain of command rank in which he ask Sgt. Chandler why he couldn't finish his food. Sgt. Chandler didn't respond. Mr. Collins dumped his Food tray. As Mr. Collins was leaving the chow hall % Berezensky made a comment directed to Mr. Collins. Then Mr. Collins turned around in attempt to hear what % Berezensky said. % Berezensky punched Mr. Collins in his face. Then hand cuff and pepper spray Mr. Collins before the rest of the % staff of % Milligan, Daísey, Irvine Johnson maliciously assault Mr. Collins. When a member from SCT medical staff ~~REFUSE~~ to look at Mr. Collins injuries. She told Mr. Collins to "stop crying like a little Bitch." Mr. Collins went 47 days without recieving proper medical treatment. since then x-rays were taken of Mr. Collins ribs that displayed his ribs was fractured Mr. Collins was refuse copies of

*** NATURE * STAGES ***
OF PROCEEDINGS

PAGE 2

2 # #

his medical report by the doctor at
Sussex Correction Center in Georgetown, De

~~Abstract~~ Court

PAGE ~~2~~ 3 ~~3~~ ~~3~~

SUMMARY OF THE FACTS

DELAWARE DEPT. OF CORRECTION HAS A DIETITIAN
WHO PUTS TOGETHER A MENU ON WHICH AN INMATE WILL
RECEIVE ALL PROPER NUTRITIONS

D.E.P. OF CORRECTIONAL COMMISSIONER (STANLEY TAYLOR)
AND SUSSEX CORRECTIONAL INSTITUTION, WARDEN
(RICK KEARNEY) SUPPORTS THEIR CORRECTIONAL OFFICERS
TO VIOLATE INMATES FOURTEENTH AMENDMENT RIGHT
TO DUE PROCESS UNDER CIVIL RIGHTS ACT BY PERMITTING
THE CORRECTIONAL OFFICERS TO ORDER AN INMATE
TO DUMP THEIR FOOD TRAY AND NOT PROVIDING THE
REQUIRED FOOD NUTRITION DESIGN BY THE DIETITIAN

*
 "UNTESTED" STATES "DISTRICT" COURT
 FOR THE DISTRICT OF DELAWARE
 *

CIVIL NO. 105-739-SLR-

SUMMARY OF THE ARGUMENT

PHANTOFF, WITNESSES, THAT, WERE PRESENT IN S.C.C. Chow hall, WILL TESTIFY IN DISTRICT COURT THAT C/O Johnson, WAS PRESENT IN THE Chow hall, ON 8-6-05, TIME OF THE ATTACK, ON THE PHANTOFF

MS. PERKA, CROSS SAID THAT THE PHANTOFF COULDN'T PRODUCE A SONGH AFFIDAVITS FROM MY WITNESSES, WILL TO ANSWER THAT REMARK THE PHANTOFF DID NOT HAVE KNOW KNOWLEDGE OF THE hesh system, ALSO THE PHANTOFF WAS TRANSFER TO Smyrna FOR A COVER UP!

THE PHANTOFF CAN DEMONSTRATE TO DISTRICT COURT THAT THE DEFENDANTS VIOLATED THE EIGHT AMENDMENT AND THE FOURTEENTH AMENDMENT BY THE PHANTOFF, WITNESSES THAT SAW THE INCIDENT IN S.C.C. Chow hall THE PHANTOFF ASK THIS COURT TO SUBPOENA ALL THE WITNESSES THAT THE PHANTOFF HAS, AND DENY THE SUMMARY JUDGMENT OF THE DEFENDANTS

SERGEANT, CHANDLER DID NOT WITH DELIBERATE, INDIFFERENCE AND HE SHOULD BE HELD ACCOUNTABLE FOR FAILURE TO PROTECT BECAUSE, WITH HIM BEING A SERGEANT HE COULD OF PREVENT THE WHOLE SITUATION BY UTILIZING THE RANK THAT THE PRISON PROMOTION HIM WITH, THE STATE'S DEFENDANTS HAS, ALREADY MET THEIR BURDEN OF SHOWING THAT THEY

* IN THE "UNITED" STATES "DISTRICT" COURT *
 * FOR THE "DISTRICT OF" DELAWARE *

"Summary"

Case No. 105-739-SLR

VIOLATE THE PLAINTIFF CONSTITUTIONAL RIGHT BY TAMPERING
 WITH THE MEDICAL REPORTS DATES AND THE FANER DEFENDANTS
 ANSWERS TO THE COMPLAINT AND THE STAT DEFENDANTS ANSWERS
 TO THE AMENDMENT COMPLAINT FOLLOWED BY THE DEPOSITION
 OF THE TEN WRITTEN QUESTION WERE THE DEFENDANTS GOT
 CAUGHT IN A BUNCH OF LIES THE PLAINTIFF ASK THE COURTS
 TO GRANT REWARDS FOR TADA, WARDEN JACK KEARNEY HAS KNOWLEDGE
 OF THE INCIDENT THAT TOOK PLACE IN S.C.T. ON 8-6-05. HE
 REFUSE TO INVESTIGATE THE SITUATION WHEN THE
 PLAINTIFF HAVE CORRESPONDED TO HIM DEPUTY WARDEN, WARDEN
 ON NUMEROUS OCCASION THE WARDEN SHOULD BE HELD,
 RESPONSIBLE FOR ANY THING THAT TRANSPIRE IN S.C.T. AND
 THE WARDEN SHOULD NOT BE DISMISSED FROM THIS CASE %
 JOHNSON WAS IN THE BUILDING AT CHOW TIME LIKE ALWAYS
 % MCKINNON THE PRISON CLAIMS THAT HE WASN'T WORKING
 DOES C/O MCKINNON HAVE A ALIBI BECAUSE EVERYBODY KNOWS
 THAT THE PRISON TAMPER WITH THE PAPER WORK, A COURT
 IN REVIEWING A CLAIM OF EXCESSIVE FORCE USED BY THE
 PRISON OFFICIAL WAS APPLIED ON THE WRONG DOINGS TO,
 MAINTAIN OR RESTORE DISCIPLIN OR MAINTAIN AND SADDIS-
 TISFACING FOR THE PURPOSE CAUSING HARM ON THE PLAINTIFF
 IN CONSTITUTION A DE FACTO POLICY POPOW V MARGATE 176 F.
 SUPP 1237, THE D.R.P.A. CORRECTION HAS A HISTORY FOR EXCESSIVE
 FORCE VIOLATION THE EIGHT AND 14TH AMENDMENTS OF U.S.
 CONSTITUTION GLEN DAVIDSON V DIXON 386 F SUPP 482

TAG 2

* UNITED STATES DISTRICT COURT *
 FOR THE DISTRICT OF DELAWARE *

CIVIL NO. 105-CV-739-SLR

Summary

THE DISCIPLINARY HEARING DECISION FROM THE 8-6-05 INCIDENT REVEALS THAT COLLINGS ADMITTED THAT HE COMPHRED AND DUMPED THE FOOD TRAY, AND TOLD THE OFFICER "THAT HE SHOULD SHUT HIS MOUTH UP THE DISCIPLINARY" LIT'S HENNESSY IS FABRICATED ON THE PAPER WORK I DONT RECALL USING PROFANE LANGUAGE IN THE CHOW HALL AT, S.C.F. M.S.B. BUILDING C/O BERZANSKY WAS THE AGGRESSOR BY USING PROFANE LANGUAGE IN THE CHOW HALL BEING OR ACTING UNPROFESSIONAL IN FRONT OF A bunch of inmates IF ANY THING C/O BERZANSKY WAS SERIOUS INCITING A RIOT BEING THE AGGRESSIVE ASSAULTED THE PLAINTIFF IN FRONT OF bunch of inmates, THE PLAINTIFF WAS NO THREAT WHEN HE TURNED AROUND TO HEAR WHAT THE OFFICER HAD TO SAY THE PLAINTIFF WAS NO THREAT WHEN HE GOT HANDCUFFED AFTER THE HANDCUFFING THE OFFICERS SPRAYED THE PLAINTIFF WITH TWO TUBS OF PEPPER SPRAY THEN PROCEEDED TO PUNCH AND KICK THE PLAINTIFF, FOR NO REASON AT ALL NO KIND OF THREAT TO THE CORRECTIONAL OFFICERS SAFETY OR THE ENVIRONMENT THE OFFICERS VIOLATED THE PLAINTIFF EIGHTH AMENDMENT AND THE FOURTEEN, AMENDMENT THE SUMMARY JUDGMENT FOR THE DEFENDANTS SHOULD BE DENY

* UNITED STATES DISTRICT COURT *
FOR THE DISTRICT OF DELAWARE *

4
#

CIVIL NO. 105-CV-739-SLR

Plaintiff, MEDICAL RECORDS SHOW THAT HE WAS ON SCHEDULE
FOR AN EXAMINATION FOUR DAYS AFTER THE INCIDENT
THE PLAINTIFF HAD EXRAYS DONE ON 8.17.05 GIVEN,
DAYS AFTER THE INCIDENT, THE PLAINTIFF CAN PROVE
THAT BY THE PHYSICIANS ORDER AND THE ONLY ITEM THAT
THE PLAINTIFF WAS TREATED FOR TWO FRACTURE RIBS WAS
ON 9.22.05. WHEN DOCTOR BURNS TOLD ME THAT MY RIBS ARE
FRACTURE, AND THE REST OF THE PHYSICIANS ORDER HAS BEEN
TAMPERED WITH BY THE PRISON, AND THE STATE DEFENDANTS
MOTION FOR SUMMARY JUDGEMENT SHOULD BE DENY

~~Abstract~~ Court

PAGE 4 #

SUMMARY OF THE FACTS

DELAWARE DEPT OF CORRECTION HAS A DIETITIAN
WHO PUTS TOGETHER A MENU ON WHICH AN INMATE WILL
RECEIVE AN PROPER NUTRITIONS

D.E.P. OF CORRECTIONAL COMMISSIONER (STANLEY TAYLOR)
AND SUSSEX CORRECTIONAL INSTITUTION, WARDEN
(RICK KEARNEY) SUPPORTS THEIR CORRECTIONAL OFFICERS
TO VIOLATE INMATES FOURTEENTH AMENDMENT RIGHT
TO DUE PROCESS UNDER CIVIL RIGHTS ACT BY PERMITTING
THE CORRECTIONAL OFFICERS TO ORDER AN INMATE
TO DUMP THEIR FOOD TRAY AND NOT PROVIDING THE
REQUIRED FOOD NUTRIENT DESIGN BY THE DIETITIAN

*
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
*

5#

CIVIL NO. 105-739-S.L.R.

STATEMENT * OF THE FACTS

Delaware Department of Corrections has a dietitian, who puts together a menu in which an inmate will receive all proper required nutritions.

Department of Corrections, Commissioner, Stanley Taylor and Sussex Correctional Institution, Warden, Rick Kearney support their correctional officer to violate Inmates Fourteenth Amendment right to due process under civil right act by permitting the correctional office to order Inmates to dump their food tray and not providing the required food nutrient design by the dietitians.

Excessive use of force, assault and battery, and verbal abuse violated Mr. Collins constitutionally protected rights in accordance with the Eighth Amendment of United States constitution, By physically Beaten Mr. Collins. The actions by the Correctional officers also violated The Fourteenth Amendment of United States Constitution, Equal Protection right.

When the medical staff failed to provide adequate medical attention it also violated Mr. Collins Eighth Amendment of United State constitution excessive cruel unusual punishment.

* THE

* STATE OF

* DELAWARE

* ARGUMENT *

Delaware, Department of Correction, Commissioner, Stanley Taylor and Sussex Correctional Institution, Warden, Rick Kearney Failure to control Correctional officer with their knowledge of the Correctional officers repetitive use of excessive force constitute a de facto policy Popow v Margate 476 F. Supp 1237.

Delaware Department of Corrections has a history for using excessive force violating the eighth and fourteenth Amendment of United States Constitution Davidson v Dixon 386 F. Supp 482

All prisoner is entitle to be in an environment that's free from cruel and unusual Punishment under the eighth and Fourteenth Amendment Nussle vs. Porter 122 S.Ct 983

This case should be ruled more by the merits than technicalities. The Department of Correction Control all Paper work. Commissioner, Stanley Taylor went under a major review for the neglect of Department of Correct medical Staff. In that same error Mr. Collins was denied medical treatment also denied right to x-ray in his personal medical file. Dole v Arce Chemical Co. 921 F.2d 484

The Correctional officers was maliciously and Sadistically when they hand cuff, sprayed

Argument cont.

two cans of pepper spray in Mr. Collins face. Then continue to beat Mr. Collins Hudson 112 S.Ct 995. When a prisoner is under control where the correctional officers can't be harmed. Then continue to physically hurt Mr. Collins that act violate Prisoner Fourteenth Amendment right to due process under civil right act Davidson v Dixon 386 F. Supp. 482.

Although it may appear that some Correctional officer didn't physically beat Mr. Collins personally they to share equal amount of responsibility. Because of their knowledge of event that took place even the medical staff that refuse Mr. Collins proper treatment is equally responsible for Mr. Collins pain and suffering. Bracey v Grenoble 494 F.2d 566, Byrd v Brishke 466 F.2d 6, Landman v Royster 354 F. Supp 1302, Wright v McMann 460 F.2d 126.

State Prisoners are entitle to recover for Physical abuse of his body under civil right act Curtis v Everett 489 F.2d 516. In this kind of premeditate malicious assault punitive damages are appropriate Collins v Brown 268 F. Supp 198. Lampert v Renold Metal Co. 372 F.2d 245. Correctional officer are not elligable for sovereign immunity when they act unconstitutionally Monroe v Pope 81 S.Ct 473.

DISTRICT COURT

Page

#

#7#

*
CONCLUSION

MOREOVER THE PLAINTIFF

BELIEVES THAT SUFFICIENT
EVIDENCE EXISTS FOR THIS HONORABLE
COURT TO GRANT RELIEF AS REQUESTED.

RESPECTFULLY
Curtis Collins

DELAWARE CORRECTIONAL CENTER

#1181 #PADDOCK RD SMYRNA DELAWARE
19977

CERTIFICATE OF SERVICE

I, CURTIS COLLINS hereby CERTIFY
THAT ON 1/14/07
I CAUSED A TRUE AND CORRECT COPY OF THE
ANSWERING BRIEF ATTACHED WAS
HANDLED TO A DCC, CORR, CENTER
TO PLACE IN A D.C. US. MAILING SYSTEM
TO FORWARD TO:

CLERK

D. E. F. T. COUSCH

ERICKA Y. TROSS

Deputy Attorney General
D.E. P.T. OF JUSTICE,

CARVER STATE Bldg.
820th St
MT. French Wilm, Del
19801

UNITED STATES DISTRICT COURT
OF
DELAWARE HOCK, Box 18[#]
844 N King St Wilm, Del
19801-3578

RESPECTFULLY

CURTIS COLLINS
DEL / CORR / CENTER
SMYRNA DEL, 1181- PADDOCK ROAD